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SLAVERY IN GERMANIC SOCIETY DURING THE MIDDLE AGES.¹

III.—*Liberation.*

The personality of the slave being once recognized, even if only indistinctly, his value as thing became more obscured, and he was a man in bondage with few rights, indeed, but not without them entirely. The lord wielded absolute power over him only in theory, practically he protected him, and was his economic mainstay when the slave could not manage for himself. The condition of half-free thus dawned for the slave; not free and yet not quite a slave, a little of each, more of the latter than of the former—this is the next definite stage.² Still there were ways to make him absolutely, unrestrictedly free, and the original humanity in him restored to its full rights. But these were the rarer instances, because they were the more radical and perilous, while his gradual liberation through the successful work of generations was the far more common.

¹ Authorities consulted (additions to previous list): MANSI, *Amplissima collectio conciliorum*, Vol. XI; MAURER, *Die Freigelassenen nach norwegischem Rechte. Sitzungsberichte*, 1878; MAURER, *Die Bekehrung des norwegischen Stammes*, Vol. II; STUTZ, *Geschichte des Beneficialwesens*, Vol. I; PAPPENHEIM, "Launegild und Garethinx," in GIERKE's *Untersuchungen*. Heft. 14; SOHM, *Reichs- und Gerichtsverfassung*, Vol. I.

² This stage in modern conception would correspond to the serf. Still, even if SEEBOHM's *English Village Community* (p. 405) says: "Whenever a lord provided his slave with an outfit of oxen, and gave him a part in the ploughing, he rose out of slavery into serfdom"—yet, the word serf there seems to be used only in its modern theoretical sense. It is safe to say that the real change was neither so sudden nor so complete as the passage would otherwise indicate. At our distance of time, no doubt, the gradual movement is imperceptible, and we see as sudden changes what were necessarily slow. At any rate, the name *servus* remained for the serf, and, although we know the condition of the serf (as a type) only from the period of its crystallization (twelfth and thirteenth centuries), it is, perhaps, due to the identity of names that the development of what is technically called serfdom is usually ascribed to a much earlier period. But there is no evidence to show that the lord, or the law, for that matter, distinguished between the *servus* of the one kind or of the other. The dividing line was so floating, and of such individual (local) rather than general (national) importance, that the identity of names may as well speak for a prolongation of slavery. The *servus* of the one group had opportunities which the other had

We have already mentioned the agencies that helped to bring about the amelioration of slavery. We shall meet them again in studying the liberation of the slave, acting, however, less generously now than the last step is to be taken, but on the whole, tending to help him forward. The gradual leveling of the free and the rise of an almighty aristocracy that demanded a large retinue, such as the later Frankish Empire and the early feudal period present, assisted the slave greatly. Philanthropic tendencies on one side and economic-political changes on the other, also worked in his favor. It cannot be said that the end was reached before the eleventh and twelfth centuries, and not quite even then. The development of a half-free class took the place of the previous development of an unfree; but this new class rose largely from elements which had no connection with the older slave class, on the contrary, it was created by the wholesale reduction of the bankrupt German freeman to economic servitude, such as had taken place many centuries before by the gradual reduction of the Roman free farmer to colonus. As in even Republican Rome there was room largely only for capitalists and laborers bound to the soil, so in the later Frankish empire, there was rarely space for others than the feudal lords and their tenantry, of which the originally unfree portion had a tendency to work upwards, while the free tended to sink below. In the meantime the original slave became absorbed among the free and disappeared.

not, but these opportunities did not count for enough to warrant treating the new as so different from the old as to give it a new name. The *mansuarius* was distinct from the *famulus*, the *puer*, the *ministerialis*, but he was *servus* as well as they. The *servus* settled on land, remained to all intents and purposes still a *servus*, i. e., a slave, until he could be distinguished as belonging to a class, a change which it undeniably would take some generations to bring about fully. As little, therefore, as the Virginia slave, given a garden patch to cultivate and a cabin to live in ceased to be a slave, because he was no longer an inmate of the manor, or as little as the villein of later ages ceased to be a villein *de facto* and *de jure* because he ran off into the city and became absorbed among the many working hands there, just so little did the slave of the Merovingian or Carolingian time become a serf in our sense until a reasonable time had gone by, during which this new condition and all it involved had become established and recognized as a definite feature of social and economic life. I think, on the whole, it may be said that a great deal of unclearness exists in regard to what is to be the criterion of a serf; is he a slave liberated to the state of serf, or is he a slave settled on land merely and growing out of slavery by degrees into a state not definite at first, but becoming by imitation something similar to the *litus*, the *colonus*?

There is no topic more difficult to treat systematically than the liberation of the slave. National peculiarities, a variety of conditions which show the governing thought each time in a different light, and are often hard to bring under one rule, demand each some special attention. For the sake of a more rapid survey, and as an attempt to contribute towards the solution of the question, the main principles are here briefly pointed out.

There were various ways in which the slave could be given his freedom:

1. His liberation could be either complete or limited (conditional);
2. It could be of public or private character ;
3. It could be gratuitous to the slave, or granted on the payment of his (nominal) value to the lord, either by himself or some one else;
4. And it could be given by nation, king, church, or private individual.

In regard to the first three points, the liberation which was public was often complete and sometimes gratuitous in character, though oftener dependent upon the payment of the stipulated fee; while the private and unceremonious liberation was likely to be conditional and limited because of the absence or only partial payment of the proper fee.

In regard to (4) the source of liberation, it appears most likely that church and king, because of their position, should be oftenest inclined to give freedom unconditionally and without fee; while the nation, owing to the nature of the act should be least inclined to liberate and should do it only with great sacrifice and ceremony. Private individuals, however, would be likely to do so oftener and in order to secure benefits for the master rather than for the slave. There is evidence, however, to show that the church favored manumission of an unlimited nature largely only where she was not herself concerned; while by her frequent limited manumissions of her own slaves she most of all helped to create a class of half-free as a regular institution and economic necessity.¹ The king as the representative of the even greater landholder, the state, followed the example of the church and manumitted to half-free and *glebae adscriptus* on his own estates. But as representative of the nation and holder of the highest Christian

¹ LÖNING, *Geschichte des deutschen Kirchenrechts*, Vol. II, p. 229. Protection on the part of the church for the manumitted, p. 232. Her policy in this, pp. 233 ff.

authority within the state, the king more than any other person helped to give the beneficent teachings of the church regarding the slave the active force which it demanded. The king at an early period became the manumittor on a large scale and awarded persons thus manumitted a substantial protection and support such as no one else could or would. Hence the king and the freedman manumitted through the participation or in the presence of the king, came to have a vital interest in one another. The freedman's property passed by death to the king, and his *wergeld* was paid to the king, instead of to his own family, since he was not yet legally supposed to have any family. On the other hand, the nation¹ when it liberated, liberated completely. But it did this only in exceptional cases, and it soon yielded the honor of performing the ceremony to the king. As a matter of course, however, neither church nor king nor nation could manumit without the consent or the desire of the lord. Private individuals, again, naturally favored the limited rather than the unlimited manumission. Yet only private individuals, by introducing the slave into a family of free, could offer him the most direct and simple way of becoming a freeman.

Of the two, complete or limited freedom, I hold the latter to be the original and older.

Freedom must at first have been only conditional, a transient thing which could be given and taken away, having almost the character of an experiment. Not that we do not know of cases of complete freedom in very early times, but the whole proceeding was so extraordinary, the slave was given freedom with so much solemnity, his position seemed so new, so without foundation in his previous life, that such freedom, however great a boon, must have impressed the slave himself as having too many dangers in its wake to make it seem safe or even very desirable. The slave had no kin among the free, could expect no effective help, had no established relation to anyone but his lord; the king not being the natural protector of any but those he himself liberated. The freedman, therefore, was like a lone tree planted *on* a rock instead of in the shelter of it, exposed to the fury of wind and weather. And if the slave, who had lived in the shadow of someone's power all his life, himself may have desired only a gradual rising to the position of freeman, it must be supposed the owner had much less objection.

¹As represented by the provincial assembly or the army or even the assembly of the hundred. In Iceland, in some places, the chief priest, *goði*, figured as manumittor, in England the *vicecomes*.

The slave, therefore, most likely sought the position of *litus* or *colonus* or of *aldius*, or he wished attachment to the lord's personal service, rather than absolute independence.¹ As a *litus* or *aldius* the freedman had the security of belonging to a class which the law recognized and protected. The Anglo-Saxon or Saxon or Frisian *litus* or the Lango-bardian *aldius* was one of the nation with certain guarantees, whereas the slave had none. The northern *frjálsgjafi* who had been given his freedom, but still served his lord—these and others indicate the provisional stages which perfectly suited the case and made no break in the logical development. Uncommon, and therefore interesting mostly as an anomaly, is the liberation which at the same time was complete and gratuitous. In most cases, however, it is merely a conjecture whether the liberation was gratuitous or not, since the sources give us small if any information concerning this fact.

It is well to begin with absolute liberation, since that was the most extraordinary. In the liberation of the slave the lord could have had but two objects in view, either his own benefit or that of the slave. If there were reasons other and greater than mere material benefit why the manumission should be complete, the slave would be given freedom accordingly. Such reasons the church gave in plenty when she recommended liberation of a fellow-being as a means of redemption and a penance for sin. In this case the benefit done to the slave was so clearly covered by the benefit to the lord that it seems as if freedom should have been both complete and gratuitous. And yet equally often the liberation given was of the most limited character.² The

¹ It is certainly reasonable to suppose that the lord was unwilling to grant more, and the slave had to take what he could get. But it seems equally reasonable that the slave who had reached so far as to have freedom offered him should likewise have an opportunity to *choose* what seemed to him safer, knowing the prejudice against him. The Icelandic *sagas* speak often of slaves who have freedom offered them as ultimate reward for some very perilous undertaking, but the whole tenor of the northern laws point to this as being an extraordinary occasion, and the reward therefore uncommon. That limited freedom should precede unlimited seems to me, therefore, most natural and indisputable.

² *Vide* Swedish Law, O. G. (in PAPPENHEIM, *Launegild und Garethinx*, p. 41): "Now a man for the salvation of his soul gives a slave (*annöfugum*) freedom, then he (the lord) shall both answer and make complaint for him (the slave) until he is introduced into a family, and until then he can give no oath nor legally make a purchase, and whatever is done to him shall be paid for as if it were done to a slave and not higher. § 1. If they will now take him (the slave) into a family this shall take place with the permission of the owner," etc.

Germanic nations from the earliest time knew and practiced a complete liberation without cost to anybody but the lord. This occurred when the latter wished to reward for long service or for special service (saving of master's life, *e. g.*). The nation also could liberate upon the plea of extraordinary merit. The slave then was freed by having arms given to him in the presence of everybody at the public meeting place, perhaps in expectation of a hostile attack or in accordance with the law passage: "When common danger calls all (free and slave) to arms in the defence of the country the slave who succeeds in slaying an enemy in battle is free."¹ The slave also acquired complete freedom by being introduced into the community of free, either directly, by being presented as free by free in the public assembly, "*leiða i lög*,"² or by being introduced into a family of free; which again might have some relation to the possibility of the slaveborn child of a free father being brought up as free if manumitted by the father before it was three (or fifteen) years old.³

These methods belong to the oldest and most primitive modes of giving a slave his freedom. The slave who was manumitted on the plea of extraordinary merit by being given arms in the company of free, and the child who was liberated before the age of three (or fifteen) could not have paid anything for their freedom. And perhaps it was this child (or boy) also who was later introduced into the assembly of free as a further security of his personal liberty. In other cases of complete manumission it is far less certain whether the act was without cost to the slave.

One of the more elaborate methods of manumitting to full freedom was the English mode of transferring the slave from the hand of the master to that of another freeman (in this case the vicecomes), who manumitted, as a symbol of the separation from the lord. This was always done in the presence of the assembled free. The liberated was then shown the open road and door to signify that nobody could restrain him and he was given a freeman's sword and spear.⁴ An even

¹GpL., c. 312. ". . . látit fara herör ok stefnt saman þegn ok þræl." *Saga Olafs hins Helga*, ch. 129.

²FINSSEN, *Grágás, Kgsb.*, ch. 112. "þá er manne frelse gefit at fulllo er hann er i lög leiddr."

³GpL., ch. 57, 58. See further, p. 253.

⁴*William's Laws* (SCHMID), III. p. 15. Si qui vero velit servum suum liberum facere, tradat eum vicecomiti per mamun dextrum in pleno comitatu, quietum illum clamare debet a iugo servitutis suae per manumissionem, et ostendat ei liberas vias et portas et tradat illi libera arma scilicet lanceam et gladium; deinde liber homo efficitur.

more characteristic ceremony was that among the Langobards by which the slave amid clashing of arms in the assembly (*gairþinx*) was passed from the hand of the lord to other freemen till the fourth was reached who then declared him free and completed the act by leading him to a crossway, bidding him be at liberty to go where he wished. The slave was then given arms and was henceforth a full-free Lango-bard.¹

When the king manumitted as the lord of his own estates or as the head of the nation upon the plea of another, he might do so gratuitously with the freedom as a gift to the slave, but where the king did not manumit his own, the lord of the slave must of course have agreed to have it thus performed.² As already indicated, the king soon stepped in and became the chief actor in the drama in which formerly the free owner and the public assembly played the whole part. This participation of the king, however, shows to my mind the extraordinary nature of the complete manumission (the king could not take part in anything less), whether it was gratuitous or not. Thus among the Franks the slave was liberated before the assembled freemen by the king (originally the lord) knocking a penny from the slave's hand so that it flew over his head. This was a sign that his services and dues were dispensed with. The king likewise liberated by command or by letter which made symbolic acts and ceremonies unnecessary; but this has less interest to us, since it is not Germanic in character.

The church was not the first in chronological order to benefit the slave, but when she began, she was at least the most constant and untiring advocate of the betterment of his condition, and through her influence strongly animated both nation and king to follow her advice in this direction. The king in particular became the willing instrument of her teachings, mainly because the dependence of the manumitted upon royal protection suited his own absolute tendencies. In the manumitted the king found the same obedient subject and follower as he had found formerly in the slave. The church in imitation of the Mosaic law succeeded in introducing paragraphs into some of the national codes according to which the slave who had served his master seven years was to be set free.³ From the nature of the case (the

¹ *Edict. Rothar*, chap. 224.

² The lord could as little be compelled to liberate his slave as he could be compelled to sell him. *Lex Visigoth.* V, 4, 17: "Nullus servum suum vendat invitus."

³ *Aelfred's Laws*, Intro., p. 11. Swedish Laws, see reference in MAURER, *Die Freigelassenen*, p. 23, note 5.

period of seven years) it seems more likely that this rule was established for the purpose of benefiting the enslaved freeman rather than the slave proper. Likewise in imitation of Mosaic precepts the lord who mutilated his slave in a peculiar fashion (eye for eye, tooth for tooth) or who compelled the slave to work on Sundays was obliged to give him his freedom in return.¹ Through the influence of the church, but upon the command of the king, the provincial laws of Norway decreed (eleventh century) that every year at Christmastide a slave should be given freedom and the different districts within the province should contribute to that effect.² To the same influence it was due that a liberation before the altar or in the church (with the Gospels placed on the slave's head) had, under certain circumstances, the same effect as an announcement in the assembly of the people.³ The church set slaves free with the purpose of absorbing them into the body of clerics.⁴ Although the lower orders were often composed of slaves and serfs (in case of patronized churches these were still in the power of their respective lords), to the higher orders no one could be admitted who had not been liberated first.⁵ In imitation of Roman custom, the church liberated slaves of her own by means of charts (*carta*), and thereby helped to make this method more general among the Germanic nations. But in most cases the church liberated only to half-free, because she needed cheap labor and a large number of ready hands.

Thus far we have found freedom yielded, or supposed to be yielded, without any expense to the slave. The lord could allow his slave to be bought free by some one else, but it must always have been in the power of the lord to limit the liberty to be given as well as the payment. A mode more in keeping with the natural progress of

¹ *Aelfred's Laws*, Intro., 20. *Ine's Laws*, 3. *Cnut's Laws*, II, 45, 3.

² GþL., c. 4 and 5. FþL., III, c. 19. Compare *Aethelstan*, Prologue 1.

³ GþL., c. 61. *Wihtræd*, 8. *Liutpr. Leges*, 9, 23, 55, 140. *Pact. Allamann.*, 2, 45.

⁴ "Proinde instituit haec sancta synodus ut omnes parochitani presbyteri, juxta ut in rebus sibi a Deo creditis sentiunt habere virtutem de ecclesiae suae familia clericos sibi faciant." *Concil Emerit*, a. 666, c. 18. *Mansi*, Vol. XI. "Jamdudum illa pessima consuetudo erat ut ex vilissimis servis fiebant summi pontifices," *Vita Ludovic. Imp.*, c. 20. *Mon. Germ. Scriptores*, Vol. II.—*Concil Wormat.*, a. 868, c. 40.

⁵ MILMAN, *History of Latin Christianity*, Vol. II, p. 549. *Löning*, Vol. II, pp. 280 ff. STUTZ, *Geschichte des Beneficialwesens*, Vol. I, pp. 150 ff.; pp. 201, 224, note 37. *Guérard*, Vol. I, p. 350. "Le fiscalin Ebbon qui devint archevêque de Reims" (*Car. C. epist. ad Nic. I, pap.*). "Fiscali nostro Fulconi abbati." *Diplom Car. C.* a. 857.

things was to allow the slave to buy his freedom by his work, or, more exactly, by the product of his work, and to make the completeness of freedom at first dependent upon the payment in full and in one sum. And here we are again confronted by the question of the slave's peculium or other means of acquiring property of his own, without which it seems impossible that he could pay the price of liberty demanded. As for the question whether the slave might not draw income from other sources than land, it is indeed possible and under circumstances even probable that he might be hired out at some trade or work for himself as an artisan; but this can only have happened in the large cities, centers of commerce on the coast or on the inland routes, where alone many industries could thrive. For the territory of the old Roman Gaul, such centers might not have been few nor far between, but for the bulk of the Germanic population possession of land and what it brought was the natural source of wealth; and this is a condition of affairs which always makes movement within society and changes in fortune very slow.

Peculium has already been defined as cattle or land, or where this failed, the opportunity, in form of extra time or extra occasion for earning, given the slave with the tacit understanding that what he thus came to possess would be his own. It seems clear that the peculium was in the first place intended not for the ultimate redemption of the slave but for the maintenance of his family. Whatever it might yield beyond this was to be counted as pure gain, and might help the slave in the further improvement of his circumstances, *e. g.*, in gaining that peculiar, strictly-defined relation which characterizes serfdom; or where this did not exist, it might finally assist him in buying his freedom. That at first the slave was hardly able to make more than a scant living out of his tenure, with the duties which the lord imposed, is only too probable. The phases of this new development are like most of what concerns the slave, as yet largely matter of conjecture; but it seems perfectly certain that, far from emancipating the slave, this cultivating a bit of land for his own good tied him more securely than ever before to the interests of the lord.

The personal relation was changed, but the substantial dependence upon each other for the production of the necessities of life became closer than ever. The slave could not live as a free man on his bit of holding, paying his rent and being under no further obligation to the lord. He was to a higher degree the tool, the machine, from which

was sought as much return as possible and whose efficiency provided the labor necessary to keep up the estate. To the slave, again, the lord remained as before the main source of bounty, the one who furnished him with an outfit and the means of living, however scant, and the master whose commands directed his actions. It was thus that the slave was gradually turned from a field hand ready for all sorts of work into the regular field laborer,¹ upon whose unlimited weekly work and constant services the lord depended for the tillage and general maintenance of his estate.

The question how soon and how much the slave could earn, aside from his dues, his work and the maintenance of his family seems wrapped in an almost impenetrable darkness. And it is vain even to hope for a definite solution of this the greatest of all problems in connection with the slave. Perhaps the best known instance of dependent landholdings of all kinds, from that of the needy free to that of the slave just emerged from personal bondage, is found in the *Polyptyque* de l'abbé Irminon, which, although from the ninth century, gives the best and completest picture of the prevailing agrarian conditions of the Frankish period. Here three kinds of landed holdings are spoken of as existing apparently independently of each other: the *mansus ingenuilis*, the *mansus lidilis*, and the *mansus servilis*. On these are settled rather indiscriminately *free*, *coloni*, *liti*, and *servi*, a circumstance tending to show that the difference among the classes was not very great and that what difference there was originated in the character of the customs attached to the holding rather than in any strong personal distinction. Even as early as this the various grades of tenants, unfree, half-free, free, were fast melting into the one more or less solid multitude of those who personally were somewhat free, but economically decidedly unfree; a mixed condition especially characteristic of the later Middle Ages, as seen in the *serfs*, *villeins*, *eigenleute*, *hörige*, *hintersassen*, etc. In the ninth century, however, the holdings rather than the status of the tenants indicated the original distinction between each, a distinction which must once have been clearly present to men's minds, otherwise the three kinds of holdings would not have been kept apart so clearly during the centuries following the German conquest.

That the *mansus servilis* was not infrequently parceled out into

¹ In conformity with the now almost classical presentation which Seeböhm gives in his *English Village Community* of the Saxon *þéow* and the *gebur*.

halves and fourths speaks of a more intensive cultivation, but also of a much larger original holding than it would be thought possible a slave could profitably manage. There was accordingly more or less irregularity in the size of the slave's holding, and also in his dues, owing most likely to the quality of the land.¹ But whether whole, halved, or quartered, the slave holding was on an average 10 acres of tillable land and meadow, including a patch of vineyard. As long as the present great uncertainty prevails in regard to the meaning of the surface measurements of the past, the tables worked out by Guérard in his *Prolegomènes*² will remain our sole assistance in establishing even approximately the extent of land held by the unfree tenant. The point of greatest interest here is the opportunity thus given to obtain perhaps an idea of the facilities the slave had to earn and save something. Perhaps modern France might furnish data for contrast in this matter, if not for comparison. During the last 30 years by far the greater number of French peasants have been settled on property less than 13 acres per owner. But the frugality, diligence, and industry of the French peasant are proverbial, and besides running his farm, whether leased or owned, he contrives to make additional income by working on other people's farms as well. His food and clothing cost him very little and his only grievance is his taxes. He is therefore most likely able to make his living and often more than his living with very small resources indeed.

The slave, however, although in possession of a farm with soil less overtaxed and, therefore, presumably more even in its productivity, and although he demanded infinitely less for his well being, worked under difficulties such as no free peasant of modern time is encumbered with. Besides, he was at a general disadvantage since his interest was a very unimportant side issue, for which he was obliged to steal his own time, as it were, instead of giving it openly. The natural result was that the slave, when all dues were paid, would make either a very sparse living or none at all, thus constantly falling back upon

¹ The land may have been woodland or waste to be cleared and brought into cultivation and have thus consumed a long time and much work before it could be made equal to other farms of smaller size. When it was sufficiently redeemed to support more than one it was parceled out to several. In such total darkness as rests over the economic condition of the lower and lowest classes during the later part of the Roman period and the beginnings of Germanic settlements, only the simplest, most straightforward reasoning can hope to be more than wild speculation.

² Forming the first volume of the *Polyptyque*.

the lord's charity. This again must have led to a gradual regulation of weekly service so that the unfree tenant should have more time for himself and could come to pay his dues properly. And here the church very likely was the one to set an example. The *Lex Bajuvariorum*¹ and *Leges Allamannorum*² give the best known instance; according to which the slave, that he might not be oppressed beyond his endurance, was to work three days in the week for the lord, and his services and contributions were especially enumerated. But, even so, in a great many instances the work of the slave was unlimited, and he was expected to do as much as the lord needed or wanted to be done. For the servus of the *Polyptyque* and other records of the time, although not identical with the servus of the Lex Salica and other laws, is not a serf, but still a slave; and it is useless to maintain that the slave when settled on land ceased to exist as such. The term mansus servilis could not have come into existence if it had not been the holding of a slave and acquired only gradually a different meaning. The original arbitrariness of the relation between master and slave still clung to it even after slavery became real instead of personal. It is obvious in the relation between lord and serf, since the latter was still at the lord's bidding even beyond his customary duties. The starting point of both relations is by this clearly indicated. The servus, therefore, in the great majority of cases, gave the lord more or less unlimited service in the form of *corvey*, *manoperas*, *carroperas* (*hand-und spanndienste*), in the plowing of fields at certain times, in work in the vineyard, watch service, the cutting of trees, and whatever else might be demanded; his duties varying with localities and customs of the estate or the obligations inherent in the nature of his holding. He paid his tribute in equally various ways, in sheep, poultry, wine, shingles, axes, iron, or whatever necessities were assigned to his farm as its share. No doubt all this was the result of a slow accumulation of wants and of the growing prosperity as the country became cleared and built up. But the servus was evidently kept closely watched and his obligations imperceptibly increased till he had just as much as he could bear. The slave just settled represented but the beginning of these wants. As he was new and unaccustomed to thrift there was perhaps little to be gained from overtaking him.

To the servus the chance for accumulating anything beyond the necessary depended to a large extent upon whether he had oppor-

¹ C. 14; 6.

² C. 22 (*codd. A.*); c. 22 (*codd. B.*).

tunity for trade, whether a river was near, or a city or a marketplace; but it depended even more upon the character of the soil, the size of his family, the nature of his dues, and whether the general prosperity of the domain was such that the work exacted was not too heavy. With a household of three to five children, such as the *Polyptyque* shows, the duties might be distributed, but the tenure was after all only one, and the greater the number to draw sustenance from its productive power, the smaller eventually the chance for savings. In case of a good harvest the surplus may often have been considerable; in drought or other misfortune famine may equally often have been the unavoidable result. The attempt to make the slave provide for himself was doubtless often a mere experiment that failed. A generation may have been necessary to teach him economy. But inasmuch as the slave, whatever his capacity, must always have retained the power to receive and keep gifts,¹ he had always opportunity for accumulating something toward his liberation. To say anything more definite is unfortunately out of the question at the present stage of inquiry.

I am well aware of the fact that the price of liberty is mentioned only in the rarest instances. In Northern laws the fee is stipulated.² Other laws are mute.³ But this cannot mean that liberation in all such cases was gratuitous, rather that the slave paid with such amount as would correspond somewhat to the benefaction bestowed upon him, and the whole matter was of so small importance that the laws found no cause for special mention. In Norse laws, too, liberty can be given without payment, complete and gratuitous.⁴

¹ Mentioned incidentally, *Liutpr.* c. 113.

² Six weighed ounces (Norweg.)=4.2 sol. *GþL.*, c. 62; but it is reasonable to suppose that it must have been more ("leysings aura" suggests something different from "þræll æða ambótt verðaura sina." *GþL.*, c. 61). 2 weighed marks (Swed.)=12 sol. *AMIRA*, Vol. I, p. 445; but in this case it is evidently a free man enslaved for whom another pays, and it does not prove that this is what a slave of long standing would be expected to pay for himself. Same author, p. 478: 3 weighed marks=18 sol. (?). None of these, however, quite fit our case.

³ The throwing of the denar is symbolic, and cannot have represented the actual fee. The old documents speak repeatedly of 4 den. as the symbolic indication of entering the state of bondage, but where the redemption from slavery occurs 2 den. (sometimes more) are mentioned as a census imposed upon the freed person. There is something distinctly Roman in this. *Coll. Sang.* 16. *Form. Augen. Coll. B.* 21. *Extrav.*, I, 19; 20. See also *LOERSCH & SCHRÖDER*, No. 51; 71.

⁴ (Skattalaust oc skulda). *GþL.*, 61.

The more regular method of liberation, however, according to these laws, was neither always complete nor gratuitous, and expressed the relation between master and slave very clearly indeed. Liberation by this method was represented by two separate stages; first, a partial gift, and next a purchase on the part of the slave. These events may well have been removed from each other by several years, or both may not have happened in a given case. The gift of freedom might take place in church by laying the Gospels on the slave's head or by seating him, while the formula was spoken, on the "chest of arms," which was below the seat of the head of the family, or even in this very seat itself.¹

If he remained only thus partially liberated, he enjoyed no full freedom; he was henceforth a freedman of inferior character, a *frjálsgjafi*,² under numerous obligations to his master. He could have more perfect freedom only by paying the stipulated fee and holding what was called his liberation beer.³ This was a festivity prepared by the (manumitted) slave to celebrate and at the same time make public his release. Here in the presence of company sufficiently numerous to witness the act, he was to offer the lawfully demanded fee, which, in this case, must be called nominal, since it represented only one-fourth of what was looked upon as his usual market value, *i. e.*, 6 aurar *versus* 3 mark = 24 aurar = 18 sol.⁴ According to another provincial law, a

¹ GpL., c. 61. "Now the man leads his thrall to church, or to seat on the chest, and gives him freedom," etc.

² To whom *freedom was given* as distinct from the one who *redeemed himself*, *leysingr* (although the term *leysingr* is sometimes used for both kinds of freedmen).

³ GpL., c. 62, "Now (if) the (would-be) freedman (*leysingr*) wishes full freedom in regard to what he buys and whom he marries (no *þyrmslir*), then he shall make his liberation beer, beer of at least three bushels (of malt), and bid to it his lord with witnesses, and bid not his antagonist, and seat him (the lord) in the high seat, and lay six aurar in the scales the first evening, and offer him *leysings* aurar. Now if he (the lord) accepts them, it is well, but if he gives them back, then it is as if they were paid. But if he (the lord) will not come, then the *leysingr* shall lead (forth) his witnesses that he invited him (the lord) to the thing, and let the high seat stand empty, and lay six aurar in the scales, and invite him (the lord) to be seated the first evening (as if he were there), that is called *leysings* aurar. But if he (the lord) has some one (there) to receive the offer (in his stead) it is well, but if no one receives it, then he (the *leysingr*) shall keep the money till the next day and offer it to him at the (midday ?) meal. But if the man does not accept it then he (the *leysingr*) shall have it and keep it till he claims it to whom it belongs; then the liberation beer is held fully.

⁴ GpL., c. 62. FpL., IX, c. 12. *Bjark.*, III, c. 166.

ram was to be slaughtered at the liberation beer, its head cut off by a freeman, and from its neck was to be taken the so-called *halslausn*; in other words, the liberation fee (perhaps hung in a bag around the ram's neck (Maurer)) as a symbol of the final deliverance of the neck of the slave from the yoke of thralldom and the fear of death to which he was constantly subject.¹ The act was afterwards announced at the assembly, in order that all might know it and no complications arise. This announcement was to be repeated twice during twenty years, by which time it was supposed that nobody would endeavor to contest the right of the liberated. The freedman was henceforth *leysingr*, not *frjálsgjafi* any longer.² The slave whose right to choose his place of living, to marry, and to manage his property had not been contested during twenty years was to be looked upon as free.³

The slave, however, to whom the king awarded liberty had no need of any liberation beer.⁴ Likewise, the property given the liberated by the king became a family possession with the quality of inherited estate.⁵ The slave to whom the folkland yielded liberty was free from serving in the army.⁶

If, in these cases, according to our sources, the liberated acquired full liberty and equal rank with the free, it was because the necessary formalities had all been attended to: the private event had been completed by the public. The natural conclusion seems to be, therefore, that the less solemn and circumstantial, the more private in nature the act of liberation was, the more it had the character of an agreement between slave and master with no strong binding power for the future.

¹ FpL., IX, c. 12. The slaughter of a ram may also be explained as the survival of a former sacrificial act, thus signifying the solemnity of the occasion. MAURER, *Bekehrung*, Vol. II, p. 199, note 44, was the first to call attention to this possible explanation.

² FpL., IX, c. 12.

³ GpL., c. 61 and 66. To me this case looks like that of a runaway slave who had fled to the woods of another folkland, the mountains cutting off pursuit, where he succeeds in avoiding discovery, living as hunter or coalburner or what not, and maintaining his liberty by his very isolation. Here he may have cleared land and established an existence. Some of the homes on the very edge of the mountain ridge, which are seen from the Norwegian valleys, must originally have been built by some desperate individuals, thieves, outlaws indeed, who had fled "justice," and maintained themselves where they could be least molested. In this case freedom was slower in coming than to the slave who hid in cities, and who, when the year was over, was free. *William's Laws* (SCHMID), III, c. 16.

⁴ GpL., c. 61.

⁵ GpL., cc. 129, 270.

⁶ GpL., c. 298.

Only when it assumed the character of a definite stipulation, accompanied by the necessary publicity, or when the whole community had been called upon to witness, and, so to speak, sanction the act, did it have binding force for all parties concerned.

When liberation by means of chart came to supersede the spoken word, the semi-private nature of the letter, as well as the possibility of stipulating exactly the limits of the freedom given, made this form the commonest in manumission to inferior rights, to *tabularius*, *chartularius*, etc. But these kinds are characteristic of Romanic, rather than Germanic, customs. In the North the reason for making a slave a *frjálsgjafi* instead of a *leysingr* was either the master's lack of desire to go further in liberality, or the failing of the slave to satisfy the master's demands. That the master was not always to be blamed for tardiness in yielding to the desires of the slave for freedom can easily be understood when it is seen how little the liberation fee after all could recompense the lord for loss of absolute property right.¹ It seems to be in recognition of how insufficient the liberation fee in many cases really was to the lord that the Norwegian provincial laws decreed that the slave who had already bought his freedom should, nevertheless, work a year for his master.² Just as there were reasons why a liberation which was complete should also be gratuitous, so there were reasons why a manumission which was gratuitous should be limited in nature. An instance is found in the liberation according to Swedish laws when the lord give a slave (*annöþugher*) freedom, but remained responsible for him in every way, thus leaving his position otherwise no better than it was before.³ And here we meet those stages of conditional

¹ In answer to the question why the liberation fee was so small, it must be pointed out that, inasmuch as money was exceedingly scarce (the fact of its having a value of 10 : 1 of what it has today points to this), six aurar in weighed and pure silver was a sum of great magnitude to the slave and a not unwelcome increase to the funds of the lord. At a time when it must be supposed that large fines were usually paid in kind, in woven goods, or in cattle (GpL., c. 223), the ready money brought together by the slave or the freedman had a worth beyond its actual value, and was not altogether undeserving of its name of liberation fee. Besides, this fee was not, and could not, be a compensation for future service, but for alimentation in the past, which the lord looked upon as an outlay that he did not wish entirely thrown away. This alimentation the freedman settled on land might henceforth furnish himself, the produce yielded paid for the land, and the two items of expenditure were thus made to balance more evenly.

² GpL., c. 61.

³ O. G. Ærfb., 20. PAPPENHEIN, p. 41, translated under note 2, p. 234.

freedom which came earliest and lasted longest, a course of gradual and painfully restricted improvement.

The best representative of the earliest forms of liberation, and the lowest stage of freedom is the freedman just mentioned, whose position was not much better than that of a slave until he was introduced into a family. Indeed, he appears so distinctly typical that from the point of view of this lowest type it seems worth while to consider such apparently different cases as that of the Langobardian *aldius* and the already-mentioned Norwegian *frjálsgjafi*.

The Langobardian *aldius* was liberated apparently without any formalities whatsoever, he was attached to the soil, he could not leave the lord's domain without drawing down upon himself punishment, as did the slave. The relation between the lord and the *aldius* was regulated, the patron gave the freedman protection, and the freedman owed him duties. The *aldius* could have property, but he could not dispose of it, the patron was responsible for all his acts; for satisfaction the law turned to the lord, not to the freedman. In the eyes of the law the *aldius* was but an instrument in the hand of the free. In all these particulars the difference between the slave and the *aldius* is almost nil. The *aldius* could have a family, but had no right to marry without his lord's consent. He, however, enjoyed the protection of the law to a certain extent, since he was regarded as belonging to a particular class instead of being a nondescript and part of an inventory.¹

A little better than the *aldius*, but supplementing our idea of his state quite wonderfully, was the Norwegian *frjálsgjafi*, who was as yet free only in an informal way, without the payment of fee, and also without the liberation beer.² The law looked upon him as in debt to the lord for the liberation fee, and allowed the latter without fine to force him to pay even with blows.³ Very likely the lord settled this freedman on land, for how was he otherwise to maintain himself?

¹ *Roth.*, cc. 258, 235, 216, 219. *Grimvald* c. 1. *Lintpr.* cc. 68, 139, 143.

² He had no free disposition of what he possessed, or at least only to a trifling amount (one örtug); (compare GUÉRARD, Vol. I, p. 306, note 12, where in the thirteenth century serfs could not bequeath to a value of more than 5 sous). *GþL.*, c. 56. He could not marry without his lord's consent. *GþL.*, c. 63. He had only limited right to move about. Neither could he settle where he pleased. If he ran away he became a slave. *GþL.*, cc. 61, 67. His children could not inherit from him nor he from them, they belonged to the lord's household, and he was himself subject to the mundium of the lord. *GþL.*, cc. 65, 296. *FþL.*, cc. 10, 13.

³ *GþL.*, c. 61.

Thus the dependent relation became further established. For this land he paid some sort of tribute, and was otherwise left to shift for himself. Furthermore, he was to help to support the lord in case the latter became destitute.¹ In the same way the destitute freedman could call upon the lord for assistance. The lord was his natural mainstay, and obliged to support him and his family; but this duty on the part of the lord is by no means unlimited; he could under circumstances relieve himself of the whole burden by making the freedman and his "gang" starve to death till only one was left (*grafgangsmen*).² Those who had complaint against the freedman or a demand for compensation from him turned to the lord for satisfaction.³

The moral attitude of the frjálsgrjafi towards the liberator the laws characterize by the name *þyrmslir*, which means respectful behavior, and they even go so far as to specify how this respectful behavior was to be understood. The freedman was not to attempt to rob his master of property nor to sit in judgment against him, never swell the host of his enemies, nor bear any witness against him, nor be on the side of the lord's betters unless permitted to do so — regulations of an almost feudal character which throw strange light upon the possibilities after all open to such an (supposedly) inferior being. If the freedman committed any of these disloyal acts he was to be reduced to his former place and have all his property forfeited.⁴

¹ GpL., c. 129. Compare Maurer's explanation of what is meant by "fostrlaun" on p. 68 of his treatise.

² "The barbarous custom of an almost forgotten past." A grave was to be provided for them in the churchyard, and there they were to be put to die; the lord, however, was to take out of the grave the survivor and bring him up. GpL., c. 63. See the whole complicated matter in MAURER, pp. 69-74.

³ *Willa*, p. 215.

⁴ GpL., c. 66. "The freedman shall show consideration (have *þyrmslir*) towards his lord. He shall not plot for the purpose of depriving him of his property nor of his life; nor shall he be against him in the court unless he has his own case to defend. Then he shall uphold it against him as against other men, and not attempt to measure himself with him in words, and wield neither sword nor spear (point and edge) against him, and not swell the host of his enemies, and not bear witness against him, or aid those who are mightier than he (the lord), unless he (the freedman) has his permission, and not join a court hostile to him. And if he does any of these things he shall go back into the place he was in before and redeem himself from it with the value of it, and he shall also have lost his property. Two shall fulfill these obligations, father and son, against the other two (father and son on the other side). If his (the freedman's) son commits any such fault he shall pay the lord the value of it, the same as did his father." The attitude of the vassal towards his seigneur is here forestalled and the position of the frjálsgrjafi is not very different either from what little we know about the Roman client of earlier times.

It was possible, however, for the frjálsgrjafi to buy himself free from the þyrmslir, and thus be like the freedman of higher order, the leysingr. Yet the leysingr was not relieved from some obligation towards his patron, although he had bought off the most oppressive. He had to expect to aid the lord in an emergency, to support him financially, if he was in need. But he was called *vánarman* rather than þyrmslirman, *i. e.*, his duties were secondary rather than primary, he was called upon only in case of utmost necessity, was not at the beck and call of the patron. He had the right to marry,¹ to come and go without the permission of the lord, and to dispose of his property, and his children could inherit it.² He, too, must have been settled on land³ as a means of maintaining himself, unless he already possessed land of his own, which, of course, was not impossible.⁴

The king, the nation, or the private individual must have endowed the freedman with property at the liberation to make him able to take care of himself. Public land must have been given or opportunity opened up to him of getting land by clearing it. That in case of settlement of a new country the freedman and even the slave had a handsome opportunity if not altogether a golden one, seems indicated by the Icelandic sagas.⁵ As such settler the freedman of higher grade must have enjoyed certain privileges, have been a tenant in fact, whose rent and dues were not heavy. But if one remembers the general situation of the tenant in a country with such small agricultural resources as exist even today in Norway and the possibility for only sheep culture in Iceland, the chances for any sudden or great economic independence on the part even of the best situated freedmen, seems rather poor; although the sagas give instances such as referred to in the notes.

Between the northern frjálsgrjafi and the leysingr in regard to rights and well-being stands the *litus* of continental origin who seems sometimes to have been under a severer tutelage of the lord than might be expected in a freedman liberated to the degree of litus. There must have been some difference between the litus of early Germanic origin

¹ GþL., cc. 61; 62.

² GþL., c. 66. The lord inherits from the freedman of higher grade in the ninth degree, while in the tenth the king is the heir. GþL., c. 106. FþL. IX, c. 11. MAURER, pp. 55-56.

³ *Eyrbyggja Saga*, c. 32, 2.

⁴ GþL., c. 91.

⁵ *Laxdælasaga*, cc. XXV, 4; VI, 8-9. *Eyrbyggja Saga*, cc. 8; 4, 30; 2, 31; 5.

and the one which figures later. Where the old *litus* remained in existence, as he did among the Saxons and the Frisians, he seems accorded very few rights indeed, his greatest privilege being his family relations and his distinction as belonging to a class. But the *litus* is best studied in connection with the development of serfdom.

The liberation by means of chart instead of by verbal grant (the chart not being revocable, as was the verbal manumission), which became so general during the centuries following the eighth and ninth, helped to create a mass of half-free who existed for nothing so much as to recruit the dwindling *coloni* (*tributarii*) and *liti*,¹ although they bear other names. These had as yet no special class-privileges, the nature of their freedom was indicated in the chart, and according to this they ranked higher or lower within the general sphere of their liberties (*tabularius*, *chartularius*). Their position is also largely determined by the position of the patron, whether they are *homines regii* or *ecclesiastici*. The liberated body servant or unfree (half-free) soldier belonged to their rank. They presented a new stage in the development of the unfree, that of *serfdom*, in all its numerous shadings and rubrics of dependence and semi-liberty.

The freedman of whatever kind acquired what he had not before—a legally fixed value.² For the *aldius* it was one-third³ of that of a freeman, for the *litus* it was one-half.⁴ The liberated Swedish *annöbughter* who was not yet introduced into the family, had only the value of the slave, the *frjálsgrafi* and the *leysingr* generally the same (according to the laws one-half [GþL.] or one-third [FþL.] of a free man).

Among the freedmen not yet mentioned, the Langobardian full-free but not *ámund*⁵ (his own master) and the Frankish (*Chamav.*) liberated *per hantradem*⁶ who was free but bound in obedience to a patron, have much in common with the *leysingr*, and even more with the northern freedman of nondescript character who was liberated *skattalaust*

¹ A tendency which, on the continent, liberation had. *Lex Ribuar.* tit. LXII, 1.

² GþL., cc. 91. 198. 200. *Lex Sal.* tit. XLII. 4. (*litus*).

³ Or a trifle more; 60 sol. vs. 150 (or more). *Liutpr.* c. 62.

⁴ 100 sol. *Lex Sal.* tit. XLII. 4. *Lex Fris.* tit. I. 4, 7, 10. ⁵ *Roth* c. 224.

⁶ *Lex Franc. Cham.* c. 11 and 12. "Hantradem" appears to me merely an awkward translation of *manumissio*, = *hant* (*manu*), *tradam* (*mittam*), as if it were a formula which would correspond with *se ille foris de eo miserit (sua manu)*. The twelve "compurgators" are necessary as witnesses, the owner manumits himself the twelfth person in the party.

oc skulda but under *byrmslir*. In regard to the Frankish slave liberated per *hantradem*, the influence of the church upon national customs is strangely evident. The liberation (according to Sohm¹) consisted in an oath taken by twelve free men (among them the liberator of the slave) in the church while holding each others' hands (*hantradem*=*handreichung*), certifying that the slave henceforth was to be looked upon as free. In this case the proper place for such liberation had been changed from the assembly of the people (*malloberg*) to the church, but it is not impossible that the liberty of the freedman suffered in consequence.

In the North² one of the most instructive phases of this entire social movement is the slowness of upward progress, even after freedom or partial freedom had been obtained. Combined political and economic considerations favored holding the freedman down. Brilliant exceptions could not change the general attitude, although they created valuable precedents. Besides, the treatment of the slave as a man, and the making him a man legally and socially, called forth new feelings of aversion among the free; the coarser differences were done away with, the finer remained and erected a barrier which for generations held the freedman outside the pale of perfect freedom. To the free population the freedman was unwelcome. He was not of their kith and kin, he had risen from the lowest of lives; he was an outsider who had no room in their midst; naturally the more insignificant he appeared, the longer he remained outside, the sooner he could hope for recognition. Should he attempt to force himself upon them, and there were no special reasons for making an exception, he would not be tolerated at all. To the master, the fee received could not compensate for the loss of a permanent laborer, and the slave could thus not be said to have really *paid* for his freedom. Freedom was, after all, more in the nature of a gift than of a purchase, and was, also, most of

¹ SOHM, *Reichs- und Gerichtsverfassung*, p. 573 ff.

² In the South (on the continent) the freedmen were far more lost among the mass of half-free servants and laborers needed to maintain the large centralized estates. As the decades went by a large number of them found their proper place without very great friction; the development of feudal tenure and military service gave them, in the end, economic independence and social position, and they ranked among the faithful adherents of an all powerful aristocracy, until they had risen so high as actually to form a lesser but serviceable nobility. There is another side to the career of the freed slave which is chronicled in the dreary sameness of serfdom, but this, too, is fused with the existence of the free, in this case the unfortunate, reduced free.

the time called by that name. Accordingly the master, in return for his liberal behavior, reserves for himself some definite consideration. Prolonged dependence, therefore, lasting till time had leveled differences, dues had all been paid, and a tradition created in behalf of the freedman, was the only natural solution of the problem.

In spite of the regulations of the laws, it must even be doubted whether in general—the *liti* and *aldii* excepted—the grades of the conditionally liberated had any very definite outlines; whether from the *annöbigher*, who was given freedom for the salvation of soul, but who was otherwise not better than a slave, to the *leysingr*, over whom the lord exercised only a nominal *mundium*, (though his freedom could not be established for twenty years), whether in each and every case the greatest difficulty for the freedman did not, after all, lie in the indefiniteness of the position, which it was too often in the arbitrary power of the free, to change for better or for worse.¹ Where was his unprejudiced protector to be found, outside of the king and the church? The lord still remained the patron until the liberated, by successive generations, had established a state of freedom, or had founded a family, or acquired a clearly recognized position. It seems as if, owing to these circumstances, the liberation by chart, which distinctly determined the nature of the freedom given, should have been much preferred and popular for this same reason. For this practical device, working toward order and fairness, the church is to be thanked.

How clearly the popular opinion, and accordingly the laws, distinguished between the highest among the conditionally liberated and the really free is best seen in the northern laws, but it also appears in the conditions on the continent, particularly in the marriage relations.² In the South where many conditions met, the power of the king and the church, and not the least the increasing differentiation of society helped to make the difference less oppressive. In the North, however, where society was more of one stamp and prejudices wore off but slowly, the liberated slave had to travel a long and torturous path

¹ See the persistent efforts of Thorolf Haltfoot to harm and finally do away with Ulfar, the freedman (of another chief), because Ulfar happens to advise Thorolf wrong in some small matter. *Eyrbyggja Saga*. cc. 8, 30-2.

² The marriage between slave and free, liberated and free and mixed relations, likewise the more or less fluctuating rights, or loss of rights, resulting from this, only further confirm this view of the matter. The question has been so extensively treated by Koehne in his contribution (*Geschlechtsverbindungen der Unfreien*) to GIERKE'S *Untersuchungen* that I need only refer to this book.

before he could call himself an equal of the free. In Norse law it took three generations within the free to create a family in the sense of a solitary unit of relations who protected and supported. The manumitted slave who had not paid his liberation fee, or whose freedom had not been publicly announced, could only in the fifth generation acquire the rights and freedom of a leysingr, the one who completed all necessary formalities. The leysingr again, under normal circumstances, could only become fully free in the fifth generation,¹ while only the eighth generation could speak of belonging to a free family. Better guarded from the intrusion of disagreeable elements the society of free could never be; and these regulations so anxiously preserved in northern laws were perhaps once common to all Germanic nations.

There was, however, one way of entering a free family and enjoying its privileges and protection at once. This, as already indicated, consisted in the freedman being introduced into a family of free. In fact the preservation of freedom for the liberated was, at least in some instances in the earliest time, dependent upon this introduction.² Without this the freedman had no guarantee that the liberty granted would be more than a passing experience. That fact may have a direct bearing on the condition of the above mentioned *annöþugher*. This method of final liberation seems to be preserved only in the northern laws, though it may once have existed in Germanic society elsewhere. That this formal introduction was by no means a frequent occurrence, but was most likely reserved for exceptional cases, such as the final legitimization of a slaveborn child (of free father), is evident from passages in Norse law, where the ceremony appears in its most elaborate form. In other words, we may suppose that the last and highest grade of liberation, in which liberty was conferred absolutely and involved privileges of membership in a free family, was confined to the occasional freeing of such illegitimate slaveborn children. Historical evidences show that all through the history of Germanic life—the family of freeborn being the nucleus and mainstay of society—the child born of slave mother had no place within its precincts. Its slavebirth made it unfit for association with free members. On the other side, the fact of its semi-free parentage offered certain

¹ Although his condition improved from the second generation to remain thus stationary for two generations more, forming the "family" (*ætt*) of the leysingr. Vide MAURER, pp. 58-66.

² *Amira* I, p. 541 (where the necessary references).

redeeming possibilities which the father or the family were at liberty to make use of, in fact, which they were sometimes obliged to take into account. If, for instance, the mother was free and the father slave, she had the power to make her child her own equal if she wished. In certain laws such a child was, by virtue of its birth, free. Not so, however, if the mother was slave and the father free. The father might make his child his equal only if he liberated it before it was three years old.¹ The child then grew up as its father's equal, possessing liberty without any restrictions of independence. But even such a child² had not *all* the rights accorded to his brothers. He inherited only when some other link in the chain was missing, and could receive gifts from his father only as a matter of condescension after the consent of the nearest heir had been gained. Full rights and perfect equality were possible to him only if the father or the next kin decided to perform in his behalf the act of introduction.

This act was of peculiar and ancient type. It took place in connection with a social gathering and required the slaughtering of an ox and the brewing of a sufficient quantity of malt into beer. From the skin on the right forefoot of the ox was to be made a shoe. The formal introduction and legitimation consisted in the father (or whosoever else was called upon to perform the act) stepping into the shoe, after him the one who was to be introduced, then the nearest heir, and finally the rest of the family, each pronouncing at the same time the appropriate formula which indicated the particular meaning of the ceremony.

As in the liberation of the ordinary slave this legitimation and admittance into the family was also to be made public during twenty successive years, when the person thus introduced could inherit, and with the inheritance could assume the full publicity of his membership. The laws indicate, indeed, that any illegitimate child, free or unfree, could be thus benefited ; but it appears as if the improvement was meant especially for the slaveborn rather than the freeborn who might be less in need of it. That not any slave (in general) who might have claim upon consideration would be thus honored, that the family would not open its bosom to welcome any but him who had a

¹ GfL., c. 57.

² GfL., c. 58. The change in age in this chapter suggests modification in demands and a later date, at least for this passage.

natural claim upon its protection, seems clear to one who has observed the exclusive character of the family among the northern nations.

But however forbidding towards the intruder, nowhere else does the family show its intention to better the condition of the slaveborn in such a marked and intimate way. This last step upward of the slave, to be sure, was largely a matter of chance, although a rather sublime, and more in keeping with the real needs of a friendless and exploited being than the gift of freedom on the field of battle or by clashing of arms in the Thing. And with this his final rehabilitation, we may fitly conclude our review of the vicissitudes in the career of the slave.

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